

APPEAL NO. 022423
FILED OCTOBER 30, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on July 19, 2002, with the record closing on August 21, 2002. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) sustained a compensable injury on _____, and that the claimant's disability began _____ and ended July 5, 2002. The appellant (carrier) appealed, arguing that the determinations of the hearing officer are erroneous and against the great weight and preponderance of the evidence so as to be clearly wrong and manifestly unjust. The claimant responded, urging affirmance. The parties stipulated at the CCH that the claimant gave notice to employer within thirty days of the alleged date of injury and the finding that the claimant timely reported the injury was not appealed and has become final. Section 410.169.

DECISION

Affirmed as reformed.

The hearing officer has erroneously listed the date the claimant returned to work for another employer as February 27, 2002, in Finding of Fact No. 6. We reform this finding to conform to the evidence presented at the CCH. The correct date that the claimant returned to work for another employer, at reduced wages, was May 4, 2002.

The claimant had the burden to prove that he sustained a compensable injury as defined by Section 401.011(10) and that he had disability as defined by Section 401.011(16). Conflicting evidence was presented at the CCH on the disputed issues. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. A claimant's testimony alone, when believed, may establish that an injury has occurred, and disability has resulted from it. Houston Independent School District v. Harrison, 744 S.W.2d 298, 299 (Tex. App.-Houston [1st Dist.] 1987, no writ). The decision should not be set aside because different inferences and conclusions may be drawn upon review, even when the record contains evidence that would lend itself to different inferences. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). The hearing officer's decision is supported by the claimant's testimony and the medical reports. We conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer in Conclusion of Law No. 4 found that the claimant had disability as a result of the alleged injury from February 27, 2002, through July 5, 2002.

The decision incorrectly restates the disability period as beginning _____, and ending July 5, 2002. The decision portion of the Decision and Order is reformed to state the period of disability as beginning February 27, 2002, and ending July 5, 2002.

We affirm the decision and order of the hearing officer as reformed herein.

The true corporate name of the insurance carrier is **ACE FIRE UNDERWRITERS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**ROBIN M. MOUNTAIN
6600 CAMPUS CIRCLE DRIVE EAST, SUITE 300
IRVING, TEXAS 75063.**

Margaret L. Turner
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Robert W. Potts
Appeals Judge